

Members

Sen. Thomas Weatherwax, Chair
Sen. Kent Adams
Sen. James Lewis
Sen. Richard Young
Rep. Markt Lytle
Rep. Robert Bischoff
Rep. Richard Mangus
Rep. Phyllis Pond



NATURAL RESOURCES STUDY COMMITTEE

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Authority: IC 2-5-5-1

MEETING MINUTES¹

Meeting Date: October 5, 2004
Meeting Time: 10:00 a.m.
Meeting Place: The Garrison
Fort Harrison State Park
Meeting City: Lawrence, Indiana 46216
Meeting Number: 4

Members Present: Sen. Thomas Weatherwax, Chair; Sen. Kent Adams; Sen. James Lewis; Sen. Richard Young; Rep. Robert Bischoff; Rep. Richard Mangus; Rep. Phyllis Pond.

Members Absent: Rep. Markt Lytle.

Call to Order. Sen. Weatherwax called the meeting to order. John Davis, Deputy Director of the Department of Natural Resources (DNR), presented both Sen. Adams and Rep. Mangus with a duck stamp print in appreciation of their services to DNR issues.

Point of Sale Demonstration. Matt Hopper, DNR Director of Legislative Relations, John Ryan, DNR Director of Internal Audit, Marti Mitchell, Access Indiana, and Scott Manos, DNR Project Manager, demonstrated the web-based, point-of-sale purchasing process for DNR licenses. (See Exhibit I.) The new system obtains information about the applicant from the Bureau of Motor Vehicles. Consequently, the applicant does not need to supply social security information. The system allows conservation officers to check lifetime license information in the field. The cost of the equipment was \$870 per installation. However, the DNR provided existing vendors equipment free of charge. New vendors will have to provide a damage deposit for the equipment. Once the license is printed, the vendor can not retrieve the information. The DNR projects that all vendors who want the system will be operational by December 2004. Paper licenses will be available only for one-day fishing for certain birds. The automated system will save vendors money because they will no longer have to provide a bond in order to sell licenses. Walmart, for example, will no longer have to provide \$423,000 in bonds.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Flood Control Act. Tim Maloney, Hoosier Environmental Council (HEC), provided an overview of the Flood Control Act. (See Exhibit II.) He noted that the National Association of Floodplain Managers reported that nationally annual flood damage totaled \$6 billion, a sixfold increase since the early 1900s. Federal insurance payments to Indiana in 2003 were \$38 million with \$6 million in 2004. In 2003, over \$4.5 million in un-reimbursed claims for public assistance were provided by 11 counties for local infrastructure repair and replacement. In addition to costs to repair damages caused by flooding, destruction of floodplains by development or fill results in a loss of water run-off buffering capacity which allows more pollutants to enter waterways. Loss of floodplain also reduces wildlife habitat. Purdue University land-use experts indicate that land development is the big source of flooding problems. Development and farming practices have reduced natural buffers around streams by nearly 70%. Buffers act as sponges to soak up excess water and pollutants. Without natural buffers studies show that water runoff in developed urban areas increases by a factor of up to 16. A local investigation showed that water runoff in an Indiana watershed containing 80% agricultural land was eight times greater than in naturally buffered areas.

Recommendations for improving the Flood Control Act include not allowing fill in floodways beyond a de minimus amount, with exceptions for public bridge crossings, access roads, and small dams. Flood conveyance channels or other structural alterations should not be allowed to offset the hydraulic effects of obstructions in floodways, with exceptions for public works flood control projects. Permit reviews should consider cumulative effects of projects. Waste or used materials should not be permitted for use in bank stabilization. Incentives for landowners to protect riparian buffers and floodways should also be increased. The DNR and the Indiana Department of Environmental Management should prepare a statewide flood risk and damage assessment.

Clarke Kahlo, HEC, stated that fill projects have affected flooding of the north White River since 1997. Elizabeth Mahoney stated that her house in Broad Ripple in a floodway fringe flooded three times last year. Nonetheless, the city is allowing other development in the floodway fringe.

Clean Water Indiana. Sherm Bryant, President of the Indiana Soil and Water Conservation Districts, explained that the primary role of soil and water conservation districts is to reduce polluted storm water run-off. (See Exhibit III.) Both rural and urban non-point source pollution include sediment, pathogens, pesticides, and nutrients which negatively affect Indiana's streams, rivers, and lakes. Several cities spend significant dollars to treat drinking water supplies to remove bacteria and reduce pesticide contamination to acceptable levels. The Clean Water Indiana (CWI) program was created in 1999 by the General Assembly to protect and enhance Indiana land, lakes, and rivers by reducing polluted storm water run-off in urban and rural areas from entering surface and ground water. The CWI was administered by the DNR Division of Soil Conservation under the direction of the State Soil Conservation Board. CWI was funded for one year with \$1M from the Build Indiana Fund. All 92 districts received at least one grant to implement local projects.

Currently, the state relies on the federal farm bill to provide funding for conservation programs. Unfortunately, the federal program left \$84.3M in unfunded requests. One-third of the CWI revenue would go to cost share, one-third to technical assistance, and one-third to the Conservation Reserve Enhancement Program (CREP).

The Conservation Reserve Enhancement Program, administered by the USDA, provides a match of \$7.72 in federal dollars for every state dollar. CREP is a voluntary program to make incentive payments to agricultural landowners for installing specific conservation practices. (CRP is a different federal program that pays for farmland set aside.)

The USDA believed that the state did not have enough money to enter into a CREP agreement.

However, due to pledges from private and public sources, the USDA agreed to enter into an agreement to provide matching funds for projects in the upper Tippecanoe, upper White River, and Pigeon Creek watersheds.

Due to the current lack of state funding, the agreement with the USDA allows for only up to 7,000 acres. The ISWCD proposes the establishment of a dedicated stewardship fund for CWI. Revenue for the fund could be generated with the implementation of one of the following options.

Option 1: Per Parcel Stewardship

Each real estate parcel would be assessed an annual fee. The rationale behind this option is that real estate and land use affect water quality. Also, most citizens would contribute. The fee could be collected when real estate taxes are collected. This fee could raise annually an estimated \$6M-\$8M.

Option 2: Sewer Assessment

Each sewer user would be assessed a stewardship fee to fund CWI. Kansas and Maryland currently assess water user fees. Indiana could generate approximately \$62M annually using a sewer assessment. In this case, water users and polluters share in the responsibility to fund soil and water conservation. The collection mechanism already exists. The fee could be assessed on sewer bills.

Option 3: Real Estate Transfer

A flat fee per real estate transaction would be assessed. Real estate and land use affect water quality, and the collection mechanism already exists in that the fee would be collected as part of the real estate closing fees. A \$50 fee per transfer would generate \$7.5M annually.

Option 4: Real Estate Parceling or Subdividing

A fee would be established when subdividing a tract of land. The amount of revenue that could be generated by this option is unknown.

Option 5: Fertilizer Use

The Office of the State Chemist currently collects a \$0.45 per ton fertilizer stewardship fee to fund its operations. An additional \$1 fee could be added to the existing fee. Kansas and Nebraska collect fees for fertilizer and pesticide use. Indiana could collect similar fees for farm and residential use. Revenue raised could be used in a cost share back to farmers for conversion to no till and other best management practices. The residential rate could be higher at \$20 per ton given that the use represents a luxury as opposed to an economic need for residents. Use of fertilizer contributes to water quality problems. This option could generate \$6M annually.

To meet conservation needs, Indiana requires a minimum of \$6M per year. Mr. Bryant would like the committee report to reflect committee support for a permanent, dedicated funding source for CWI. Of the five options, he prefers a fee of \$2-\$3 per year on parcels of land.

Gary Tom, Kosciusko County Supervisor, noted that CREP was created in the 1996 federal farm bill and that the match could be up to \$8 for every state dollar.

Dick Mericer, Indiana Sportsmen's Roundtable, supported the \$2-\$3 per parcel option, noting that CWI is important and that the federal match was significant. Bob Eddelman, Marion County SWCD, noted the value in providing technical assistance in respect to the use of pesticides on lawns and golf courses. Paula Yeager, Executive Director of the Indiana Wildlife Federation, supported a permanent, dedicated funding source for CWI.

Senator Weatherwax indicated that the committee final report would include support for a permanent, dedicated funding source for CWI.

Hunting and Fishing in Charlestown State Park. Sen Lewis stated the Charlestown State Park started with 400 acres of land that was purchased by the state from federal surplus. The park now has 5,000 acres and is the third largest in the state. A group of sportsmen have asked if part of the park could be designated as a hunting and fishing area. A law would be needed to transfer the land from a state park to a fish and wildlife area. Mr. Davis noted that there would be fishing from the Ohio River and that the federal conveyance requires the state to control the deer, so hunting would also be necessary.

Consideration of Final Recommendations and Proposed Drafts. The committee considered and voted on the following drafts.

PD 3409 repeals a provision exempting groundhogs from application of state fish and wildlife laws.

The committee voted to recommend PD 3409 with a vote of six ayes and one nay.

PD 3437 authorizes the donation, exchange, and sale of items contained in the Division of State Museums and Historic Sites' collection. The bill changes the organization of the Division's board of trustees. It establishes the Historic Site Fund and requires money generated by a historic site to be deposited in the fund. This bill also requires at least 51% of the fees collected from a particular historic site to be used for educational programs at the historic site and for maintenance and operation of the historic site.

The committee voted to recommend PD 3437 with a vote of seven ayes and no nays.

PD 3457 increases from \$50,000 to \$75,000 the cost of projects that the DNR may perform without awarding a public works contract.

The committee voted to recommend PD 3457, with a vote of seven ayes and no nays.

PD 3455 adopts the Pest Control Compact and establishes procedures to obtain funds from the Pest Control Insurance Fund. The bill also makes technical corrections.

The committee voted to recommend PD 3455 with a vote of seven ayes and no nays.

PD 3456 discontinues the fishing license exemption for residents who are at least 65 years of age. The bill establishes a senior fishing license for residents who are at least 60 years of age. It discontinues issuance of lifetime hunting, fishing, and trapping licenses, but retains the validity of lifetime licenses already issued.

The committee voted to recommend PD 3456 with a vote of five ayes and one nay.

PD 3473 makes corrections to laws concerning off-road vehicles and snowmobiles. It makes possessing an off-road vehicle or snowmobile with an altered or defaced vehicle number a Class B misdemeanor. It also makes failure of a dealer to maintain rented vehicles in a safe operating condition or to maintain liability insurance a Class C infraction (instead of a Class B misdemeanor).

The committee voted to recommend PD 3473 with a vote of six ayes and no nays.

PD 3478 allows bird hunting stamps in an electronically generated form. The bill allows

commemorative bird hunting stamps to be sold. It provides that hunting and fishing licenses and stamps expire on March 31. This bill also requires electronically obtained licenses to be signed to be valid. The bill also amends procedures to obtain a duplicate license.

The committee voted to recommend PD 3478 with a vote of six ayes and no nays.

PD 3439 requires a child less than 13 years of age to wear a personal flotation device while on a boat. The bill requires a boat or personal watercraft that is towing a person to have enough space for the driver, observer, and person being towed.

The committee voted to recommend PD 3439 with a vote of six ayes and no nays.

PD 3440 extends the definition of "taxable marine facility" for purposes of motor fuel taxes to facilities located on any body of water under the state's jurisdiction.

The committee voted to recommend PD 3440 with a vote of six ayes and no nays.

PD 3476 requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the DNR. The bill directs the Natural Resources Commission to adopt rules. It makes conforming changes. This bill also repeals laws concerning permits to change water levels, shorelines, and lake beds.

The committee voted to recommend PD 3476 with a vote of six ayes and no nays.

Rep Matt Pierce presented **PD 3480** which defines "artifact" as a human made feature or object that is more than 125 years old. The bill requires certain utility companies to have a development plan (plan). The bill requires a plan before excavating or covering ground within 100 feet of a cemetery or burial ground. It requires a person who disturbs buried human remains or artifacts to cease disturbing the area within 100 feet of the remains or artifacts. This bill also establishes a Class A infraction for violating certain duties concerning the unintentional discovery of artifacts. The bill also allows confidentiality of location information of historical or archeological sites. It also allows certain persons to accompany a conservation officer to investigate a violation of a historic preservation and archeology law. It establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with a plan. This bill allows the court to order restitution for certain costs related to the violation of the historic preservation and archeology law. The bill establishes a Class D felony for possession of looted property and a Class C felony if the property is worth more than \$100,000. It provides that a disinterment under a plan is exempt from other disinterment procedures. The bill also establishes the historic and archeological site data base advisory task force. It makes conforming changes.

The committee voted to recommend PD 3480 with a vote of six ayes and no nays.

Deer Hunting. Mr. Davis provided an update on the rules governing deer hunting. (See Exhibit IV.)

Final Report. The committee voted to adopt the final report with a vote of six ayes and no nays.

Adjournment. The committee adjourned at approximately 1:15 p.m.